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DEPT FOR EUR (DICARLO), EUR/SCE (FOOKS, MITCHELL), L/EUR  
(K. JOHNSON), EUR/RUS (GRODELSKI, WARLICK), D (SMITH), P  
(BAME), S/WCI (WITTEN, LOSS), INR (BRAUM), USUN (WILLSON),  
THE HAGUE (SCHLIDGE, C. JOHNSON), NSC FOR BRAUN, USNIC FOR  
WEBER, GREGORIAN, OSD FOR FLORY

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TAGS: [KWAC](#) [PHUM](#) [PGOV](#) [PREL](#) [RS](#) [BK](#)  
SUBJECT: BOSNIA: STATE COURT ORDERS WAR CRIMINAL ZELENOVIC  
TRANSFERRED TO THE HAGUE ASAP

Classified By: Amb. Douglas McElhaney. Reason 1.5 (b) and (d).

11. (U) On June 9 an international judge at the BiH State Court ruled that accused war criminal Dragan Zelenovic should be transferred immediately to The Hague for trial. The State Court based its ruling on the International Criminal Tribunal for the former Yugoslavia (ICTY) indictment, the INTERPOL warrant issued January 12, 2006, UN Security Council Resolution 827, the ICTY Charter Article 29(2), and Bosnia's constitutional duty to fulfill their international obligations. This will be a "transfer," not an extradition or removal. The distinction is important, because classifying the case as a deportation would have allowed have Zelenovic to challenge the ruling for months within the BiH courts. NATO in BiH confirmed that it will take custody of Zelenovic and fly him to Rotterdam airport June 10 in the afternoon, where it expects the transfer to ICTY authorities to go smoothly. In the meantime, Zelenovic is being held at the BiH State Court Detention Unit in Sarajevo.

12. (C) In April 1992, the ICTY indicted Zelenovic, a former Bosnian military police commander, for seven counts of crimes against humanity and seven counts of violations of the laws of war for his involvement in multiple cases of rape, gang rape, and facilitating rape and torture in the town of Foca during the 1992-95 war. He remained a fugitive until August 2005 when he was apprehended and detained by Russian authorities in western Siberia. Russia initially agreed to extradite Zelenovic to The Hague directly, but following the death of Slobodan Milosevic the government insisted that it would only transfer Zelenovic on condition that he go first to Bosnia.

13. (C) On June 8, Russian authorities escorted Zelenovic to Sarajevo, where he was taken into Bosnian custody and brought to the State Court at 4 PM local time. According to the ICTY, the Russians insisted, as a condition of the transfer, that Zelenovic undergo some "process" in BiH and not be turned over directly to the ICTY. The Bosnians wisely fulfilled this in the quickest and simplest manner. Immediately upon his arrival, the court held a brief hearing and ruled that Zelenovic could legally be held in custody for up to thirty days. The Court held a substantive hearing at 11:30 AM the following day. A Swedish judge presided and Deputy BiH Prosecutor for War Crimes Marinkovic successfully

argued for sending Zelenovic on his way expeditiously, based upon Bosnia's legal obligations under the various international instruments noted in paragraph 1.

14. (C) Comment: Today's precedent-setting decision was as important for Bosnia as it was for Zelenovic. The Russian demand that he enter Bosnian custody, probably motivated by domestic political optics, put the onus on BiH authorities to succeed or fail at sending him on to The Hague. Local authorities were careful to handle the case in full accordance with the law, particularly concerning the basis for custody, but were also responsive to ICTY's concerns about expediency. According to Deputy Prosecutor Marinkovic, neither the government nor political party members tried to interfere behind the scenes. The ICTY Sarajevo representative told Embassy that even Zelenovic's defense attorney appeared to accept the decision as final without a fight. Today's case demonstrates that Bosnia is committed to fulfilling its international obligation to cooperate with the ICTY, that the USG's decision to fund construction of the Court Detention Facility was a wise investment, and that the State Court War Crimes Chamber has developed mature and sensible procedures for accomplishing that task.

MCELHANEY